

AMENDED IN SENATE JULY 3, 2013  
AMENDED IN ASSEMBLY MAY 24, 2013  
AMENDED IN ASSEMBLY MAY 8, 2013  
AMENDED IN ASSEMBLY APRIL 24, 2013  
AMENDED IN ASSEMBLY APRIL 16, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 922**

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**Introduced by Assembly Member Patterson**

February 22, 2013

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An act to ~~add Section 739.11 to~~ *amend Section 739.1 of the Public Utilities Code*, relating to electrical and gas service.

### LEGISLATIVE COUNSEL'S DIGEST

AB 922, as amended, Patterson. Electrical and gas service: rates: CARE program: eligibility.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical and gas corporations, as defined. The Public Utilities Act authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires the commission to designate a baseline quantity of electricity and gas necessary for a significant portion of the reasonable energy needs of the average residential customer, and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates, and requires the commission, in establishing baseline rates, to avoid excessive rate increases for residential customers.

The act requires the commission to establish a program of assistance to low-income electric and gas customers *with annual household incomes that are no greater than 200% of the federal poverty guideline levels*, referred to as the California Alternate Rates for Energy or CARE program. *Existing law requires the commission to examine methods to improve CARE enrollment and participation, including comparing information from CARE and the Universal Lifeline Telephone Service (ULTS) to determine the most effective means of utilizing that information to increase CARE enrollment, automatic enrollment of ULTS customers who are eligible for the CARE program, customer privacy issues, and alternative mechanisms for outreach to potential enrollees.*

~~This bill would require prohibit the commission to authorize an electrical or gas corporation to verify, by the submission of proof of income, the continuing eligibility of participants in the CARE program regardless of the manner in which the participant was first enrolled into the program from using any means to determine CARE program eligibility that results in eligibility being extended to customers who's income exceeds 200% of the federal poverty guideline levels and would require that any methods adopted by the commission to improve CARE enrollment and participation not result in eligibility being extended to customers who's income exceeds 200% of the federal poverty guideline levels.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 739.11 is added to the Public Utilities~~
- 2     ~~Code, to read:~~
- 3     ~~739.11. The commission shall authorize an electrical or gas~~
- 4     ~~corporation to verify, by the submission of proof of income, the~~
- 5     ~~continuing eligibility of a participant in the CARE program~~
- 6     ~~regardless of the means by which the participant was first enrolled~~
- 7     ~~into the CARE program.~~
- 8     ~~SECTION 1. Section 739.1 of the Public Utilities Code is~~
- 9     ~~amended to read:~~
- 10    ~~739.1. (a) As used in this section, the following terms have~~
- 11    ~~the following meanings:~~

(1) “Baseline quantity” has the same meaning as defined in Section 739.

(2) “California Solar Initiative” means the program providing ratepayer funded incentives for eligible solar energy systems adopted by the commission in Decision 05-12-044 and Decision 06-01-024, as modified by Article 1 (commencing with Section 2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code.

(3) “CalWORKs program” means the program established pursuant to the California Work Opportunity and Responsibility to Kids Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).

(4) “Public goods charge” means the nonbypassable separate rate component imposed pursuant to Article 7 (commencing with Section 381) of Chapter 2.3 and the nonbypassable system benefits charge imposed pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3).

(b) (1) The commission shall establish a program of assistance to low-income electric and gas customers with annual household incomes that are no greater than 200 percent of the federal poverty guideline levels, the cost of which shall not be borne solely by any single class of customer. *The commission shall not utilize any means to determine CARE program eligibility that results in eligibility being extended to customers who’s income exceeds 200 percent of the federal poverty guideline levels.* The program shall be referred to as the California Alternate Rates for Energy or CARE program. The commission shall ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.

(2) The commission may, subject to the limitation in paragraph (4), increase the rates in effect for CARE program participants for electricity usage up to 130 percent of baseline quantities by the annual percentage increase in benefits under the CalWORKs program as authorized by the Legislature for the fiscal year in which the rate increase would take effect, but not to exceed 3 percent per year.

(3) Beginning January 1, 2019, the commission may, subject to the limitation in paragraph (4), establish rates for CARE program

1 participants pursuant to this section and Sections 739 and 739.9,  
2 subject to both of the following:

3 (A) The requirements of subdivision (b) of Section 382 that the  
4 commission ensure that low-income ratepayers are not jeopardized  
5 or overburdened by monthly energy expenditures.

6 (B) The requirement that the level of the discount for  
7 low-income electricity and gas ratepayers correctly reflects the  
8 level of need as determined by the needs assessment conducted  
9 pursuant to subdivision (d) of Section 382.

10 (4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80  
11 percent of the corresponding tier 1, tier 2, and tier 3 rates charged  
12 to residential customers not participating in the CARE program,  
13 excluding any Department of Water Resources bond charge  
14 imposed pursuant to Division 27 (commencing with Section 80000)  
15 of the Water Code, the CARE surcharge portion of the public  
16 goods charge, any charge imposed pursuant to the California Solar  
17 Initiative, and any charge imposed to fund any other program that  
18 exempts CARE participants from paying the charge.

19 (5) Rates charged to CARE program participants shall not have  
20 more than three tiers. An electrical corporation that does not have  
21 a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order  
22 to moderate the impact on program participants whose usage  
23 exceeds 130 percent of baseline quantities, shall be phased in to  
24 80 percent of the corresponding rates charged to residential  
25 customers not participating in the CARE program, excluding any  
26 Department of Water Resources bond charge imposed pursuant to  
27 Division 27 (commencing with Section 80000) of the Water Code,  
28 the CARE surcharge portion of the public goods charge, any charge  
29 imposed pursuant to the California Solar Initiative, and any other  
30 charge imposed to fund a program that exempts CARE participants  
31 from paying the charge. For an electrical corporation that does not  
32 have a tier 3 CARE rate that introduces a tier 3 CARE rate, the  
33 initial rate shall be no more than 150 percent of the CARE baseline  
34 rate. Any additional revenues collected by an electrical corporation  
35 resulting from the adoption of a tier 3 CARE rate shall, until the  
36 utility's next periodic general rate case review of cost allocation  
37 and rate design, be credited to reduce rates of residential ratepayers  
38 not participating in the CARE program with usage above 130  
39 percent of baseline quantities.

1 (c) The commission shall work with electrical and gas  
2 corporations to establish penetration goals. The commission shall  
3 authorize recovery of all administrative costs associated with the  
4 implementation of the CARE program that the commission  
5 determines to be reasonable, through a balancing account  
6 mechanism. Administrative costs shall include, but are not limited  
7 to, outreach, marketing, regulatory compliance, certification and  
8 verification, billing, measurement and evaluation, and capital  
9 improvements and upgrades to communications and processing  
10 equipment.

11 (d) The commission shall examine methods to improve CARE  
12 enrollment and participation, *and any methods adopted by the*  
13 *commission shall not result in eligibility being extended to*  
14 *customers who's income exceeds 200 percent of the federal poverty*  
15 *guideline levels.* This examination shall include, but need not be  
16 limited to, comparing information from CARE and the Universal  
17 Lifeline Telephone Service (ULTS) to determine the most effective  
18 means of utilizing that information to increase CARE enrollment,  
19 automatic enrollment of ULTS customers who are eligible for the  
20 CARE program, customer privacy issues, and alternative  
21 mechanisms for outreach to potential enrollees. The commission  
22 shall ensure that a customer consents prior to enrollment. The  
23 commission shall consult with interested parties, including ULTS  
24 providers, to develop the best methods of informing ULTS  
25 customers about other available low-income programs, as well as  
26 the best mechanism for telephone providers to recover reasonable  
27 costs incurred pursuant to this section.

28 (e) (1) The commission shall improve the CARE application  
29 process by cooperating with other entities and representatives of  
30 California government, including the California Health and Human  
31 Services Agency and the Secretary of California Health and Human  
32 Services, to ensure that all gas and electric customers eligible for  
33 public assistance programs in California that reside within the  
34 service territory of an electrical corporation or gas corporation,  
35 are enrolled in the CARE program. To the extent practicable, the  
36 commission shall develop a CARE application process using the  
37 existing ULTS application process as a model. The commission  
38 shall work with public utility electrical and gas corporations and  
39 the Low-Income Oversight Board established in Section 382.1 to  
40 meet the low-income objectives in this section.

(2) The commission shall ensure that an electrical corporation or gas corporation with a commission-approved program to provide discounts based upon economic need in addition to the CARE program, including a Family Electric Rate Assistance program, utilize a single application form, to enable an applicant to alternatively apply for any assistance program for which the applicant may be eligible. It is the intent of the Legislature to allow applicants under one program, that may not be eligible under that program, but that may be eligible under an alternative assistance program based upon economic need, to complete a single application for any commission-approved assistance program offered by the public utility.

(f) The commission's program of assistance to low-income electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission's low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved quality of care or improved food service, of the low-income residents in the facilities. The commission shall authorize utilities to offer discounts to eligible facilities licensed or permitted by appropriate state or local agencies, and to facilities, including women's shelters, hospices, and homeless shelters, that may not have a license or permit but provide other proof satisfactory to the utility that they are eligible to participate in the program.

(g) It is the intent of the Legislature that the commission ensure CARE program participants are afforded the lowest possible electric and gas rates and, to the extent possible, are exempt from additional surcharges attributable to the energy crisis of 2000–01.

(h) (1) In addition to existing assessments of eligibility, an electrical corporation may require proof of income eligibility for those CARE program participants whose electricity usage, in any monthly or other billing period, exceeds 400 percent of baseline usage. The authority of an electrical corporation to require proof of income eligibility is not limited by the means by which the CARE program participant enrolled in the program, including if the participant was automatically enrolled in the CARE program because of participation in a governmental assistance program. If a CARE program participant's electricity usage exceeds 400

1 percent of baseline usage, the electrical corporation may require  
2 the CARE program participant to participate in the Energy Savings  
3 Assistance Program (ESAP), which includes a residential energy  
4 assessment, in order to provide the CARE program participant  
5 with information and assistance in reducing his or her energy usage.  
6 Continued participation in the CARE program may be conditioned  
7 upon the CARE program participant agreeing to participate in  
8 ESAP within 45 days of notice being given by the electrical  
9 corporation pursuant to this paragraph. The electrical corporation  
10 may require the CARE program participant to notify the utility of  
11 whether the residence is rented, and if so, a means by which to  
12 contact the landlord, and the electrical corporation may share any  
13 evaluation and recommendation relative to the residential structure  
14 that is made as part of an energy assessment, with the landlord of  
15 the CARE program participant. Requirements imposed pursuant  
16 to this paragraph shall be consistent with procedures adopted by  
17 the commission.

18 (2) If a CARE program participant's electricity usage exceeds  
19 600 percent of baseline usage, the electrical corporation shall  
20 require the CARE program participant to participate in ESAP,  
21 which includes a residential energy assessment, in order to provide  
22 the CARE program participant with information and assistance in  
23 reducing his or her energy usage. Continued participation in the  
24 CARE program shall be conditioned upon the CARE program  
25 participant agreeing to participate in ESAP within 45 days of a  
26 notice made by the electrical corporation pursuant to this paragraph.  
27 The electrical corporation may require the CARE program  
28 participant to notify the utility of whether the residence is rented,  
29 and if so, a means by which to contact the landlord, and the  
30 electrical corporation may share any evaluation and  
31 recommendation relative to the residential structure that is made  
32 as part of an energy assessment, with the landlord of the CARE  
33 program participant. Following the completion of the energy  
34 assessment, if the CARE program participant's electricity usage  
35 continues to exceed 600 percent of baseline usage, the electrical  
36 corporation may remove the CARE program participant from the  
37 program if the removal is consistent with procedures adopted by  
38 the commission. Nothing in this paragraph shall prevent a CARE  
39 program participant with electricity usage exceeding 600 percent  
40 of baseline usage from participating in an appeals process with the

1 electrical corporation to determine whether the participant's usage  
2 levels are legitimate.

3 (3) A CARE program participant in a rental residence shall not  
4 be removed from the program in situations where the landlord is  
5 nonresponsive when contacted by the electrical corporation or  
6 does not provide for ESAP participation.

7 *SEC. 2. The Legislature finds and declares all of the following:*

8 *(a) The California Alternate Rates for Energy or CARE*  
9 *program, established by the Public Utilities Commission, provides*  
10 *a program of assistance to low-income electric and gas customers*  
11 *with annual household incomes that are not greater than 200*  
12 *percent of the federal poverty guideline levels.*

13 *(b) The commission may approve other electrical or gas*  
14 *corporation rate assistance programs where eligibility is not*  
15 *limited to customers with annual household incomes at or below*  
16 *200 percent of the federal poverty guideline levels and the*  
17 *commission has approved Family Electric Rate Assistance or*  
18 *FERA programs for electrical corporations.*

19 *(c) The CARE program application approved by the commission*  
20 *utilizes participation in other low-income assistance programs as*  
21 *a predetermination for eligibility for the CARE program when*  
22 *those other programs utilize income levels, definitions of income,*  
23 *or other income eligibility criteria that differ from the CARE*  
24 *program requirement that limits program participation to those*  
25 *low-income electric and gas customers with annual household*  
26 *incomes that are not greater than 200 percent of the federal poverty*  
27 *guideline levels.*

28 *(d) It is the intent of the Legislature that and methods approved*  
29 *by the commission to improve CARE enrollment and participation*  
30 *do not result in eligibility being extended to customers who's*  
31 *income exceeds 200 percent of the federal poverty guideline levels.*

32 *(e) It is the further intent of the Legislature that the requirements*  
33 *added by this act are to operate prospectively to new or renewing*  
34 *CARE program applicants and it is not the intent of the Legislature*  
35 *to require the commission to remove current enrollees from the*  
36 *program who's applications were truthful at the time they applied*  
37 *for program participation.*